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Telex: 202-429-4345  
Fax: (202) 707-3015  
E-mail: [PTO-Office@uspto.gov](mailto:PTO-Office@uspto.gov)  
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/976,073      | 10/15/2001  | Hans Sachse          | sachse              | 1580             |

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## PERSONAL INFORMATION

ATTORNEY DOCKING

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Herbert B. Keil  
Keil & Weinkauf  
1101 Connecticut Ave., N.W.  
Washington, DC 20036

EXAMINER

EXAMINER

| ARTICLE NUMBER | PAPER NUMBER |
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REVIEW PAPER

DALE MAHER, on 22-2002

111

PAPER NUMBER

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/976.073

Applicant(s)

SACHSE, HANS

Examiner

Victor S Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 09 May 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-5 and 8-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 and 11-13 is/are rejected.

7) Claim(s) 8 and 9 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

### *Specification*

3. The disclosure is objected to because of the following informalities: In the amended Specification for paragraph bridging pages 4-5, please change the phrase "UV acrylate adhesive" (Response, page 7, top paragraph) to --UV-curable adhesive--. Appropriate correction is required.
4. The use of the trademark Loctite 3321 has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### *Claim Rejections - 35 USC § 112*

5. Claims 1-5 and 8-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is noted that the many claims in their present form are still replete with vague and indefinite phrases, rendering the claims incomprehensible. For example:

In newly amended claim 1, line 3, the phrase "adheres to the surface of the tape" is vague, indefinite and confusing, i.e., it appears that Applicant is redefining the "tape", and also clearly appears to be defining the "tape" in terms of itself. Also, at line 3, the phrase "in liquid form" is confusing, i.e., is Applicant claiming a liquid on an elastic tape? For the purpose of this Office action, the Examiner presumes the instantly claimed "tape" simply appears to read on "stiffening strips", per se.. Additionally, the Examiner reiterates (see section 4 of Paper No. 9) that the phrase "with transverse stiffening" is vague and indefinite, and confusing. For the purpose of this Office action, it is presumed that the phrase means that "the stiffening strip is attached to the elastic tape in transverse direction". Also, at line 3, the phrase "homogeneous material" is vague and indefinite, since it is not clear to the Examiner what "homogeneous" encompasses. In particular, it appears that, under the microscope, all the cured adhesive would have minor differences between different areas.

In claims 2, 3 and 10, line 2 of each claim, please insert --cured-- after "consist of a".

In claim 5, the Examiner reiterates (see page 4 of Paper No. 9) that the phrase "by means of temperature change" is vague and indefinite, i.e., it appears to be unduly broad and it is not clear to the Examiner the temperature is to be increased or decreased, and the amount of temperature change.

In newly added claims 10 and 11, please change the phrase "UV-acrylate adhesive" to --UV-curable acrylate adhesive--.

In claims 8 and 9, the structural relations and structural elements are vague and indefinite. In particular, the phrase "loose surface structure" is vague and indefinite, and also appears to be unduly broad, i.e., it is not clear as to the scope of the "loose surface structure". For the purpose of this Office action, it is presumed to be an abraded surface.

Newly added claim 11 contains the trademark/trade name "Loctite 3321". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a UV-curable acrylate adhesive and, accordingly, the identification/description is indefinite.

#### ***Response to Amendment***

6. Claims 1-5, 8 and newly added claims 9-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Evans

(US 5522787), substantially for the reasons set forth in section 7 of Paper No. 9, together with the following additional observations.

For claims 1, 4-5 and 10-13, the Examiner reiterates (see Paper No. 9, page 5, top paragraph) that Evans' invention is directed to a soft, elastic support with a semi-rigid stiffener (Abstract). In Figs. 1 and 1A, Evans shows a stiffener 15 is adhered to the support 11 by the adhesive 13 in transverse direction. The stiffener 15 is preferably an elongated bar of a semi-rigid material with a durometer hardness of about 65. The stiffener should be elastic and should resist bending so as to provide additional stiffness to the support 11 (column 2, lines 9-24). Regarding the various product-by-process recitations in claim 1, 4-5 and 12-13, the Examiner notes that the method limitations have not been shown on the record to produce a patentably distinct article, and the formed articles are rendered *prima facie* obvious. As such, it is believed that the "stiffening strip", whether its one-component or two-component cured adhesive, of the instantly claimed invention is either inherently disclosed by Evans, or an obvious selection of material to one skilled in the art, motivated by the desire to obtain a semi-rigid material. Note also that as regards the presence of "two-component" in claim 3, it is believed that after application, the solvent presumably dries.

For claims 8 and 9, it is believed that it is old and conventional to use a substrate with abraded (or loose) surface, so as to enhance the adhesion at the interface.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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Art Unit: 1771

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VSC  
June 16, 2003

DAVID JERKE  
PRIMARY EXAMINER  
GROUP 1800

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